

Remarks

By the present amendment, Claims 1-12 remain pending. Claims 13-41 were withdrawn from consideration by earlier response to a restriction requirement. The present amendment amends independent claim 1 to clarify that a product container includes the element, “the wireless access point requests either validation of the consumer or payment information when the at least one device is determined to be within the vicinity of the wireless access point”. The cited reference Abell does not teach or suggest at least this element. In contrast, the cited reference Abell relates to a system which requires a customer to make a call, such as a cellular phone call, to a background system to initiate a billing authorization request. Assignee respectfully submits that no new matter has been added by the foregoing amendments. Reconsideration of the application, as amended, is requested.

Claim Rejection Under 35 U.S.C. § 102

In the final Office Action, independent claims 1-2, 5-7 and 10-12 were rejected under 35 U.S.C. 102(e) as being anticipated by Abell (U.S. Patent Application Publication No. 2003/0172028). While Abell may relate to a payment system, the system as described by FIG. 7 of Abell relates to a payment system requiring a customer to actively make a call via a Bluetooth enabled device 711, such as a PDA or cellular phone, to a background system and server 703 to initiate a billing authorization request. See FIG. 7; Paragraph [0041]. Thus, Abell requires the customer to actively make a call to authorize payment. The system of Abell does not determine whether a customer is within the vicinity of a vending machine, but relies upon the customer placing or making a call to authorize payment. In contrast, the claimed invention of claim 1 has been amended to clarify that “the wireless access point requests either validation of the consumer or payment information when the at least one device is determined to be within the vicinity of the wireless access point”. For example, the Applicants’ specification states that, “If a device having a wireless card enters the vicinity of the AIPC (Block 605), the wireless card in the device recognizes the local area network created by the AIPC (block 610) and attempts to connect to the AIPC local network (block 615). Thereafter, the AIPC may request a consumer’s account

number to validate the consumer as a subscriber to the wireless service, or may request payment information (block 620).” See Paragraph [0069]. Abell does not disclose or suggest that “the wireless access point requests either validation of the consumer or payment information when the at least one device is determined to be within the vicinity of the wireless access point”. Thus, amended independent claim 1 should be allowable over at least the cited reference.

Dependent claims 2, 5-7, and 10-12 are ultimately dependent from amended independent claim 1. If amended independent claim 1 is allowable over the cited reference Abell, then the dependent claims should also be in condition for allowance.


Claim Rejection Under 35 U.S.C. § 103

Claims 3 and 4 were rejected under 35 U.S.C. 103(a) as being obvious over Abell in view of Herzog (U.S. Patent Application Publication No. 2005/0189364), and claims 8 and 9 were rejected as being obvious over Abell in view of Pons (U.S. Patent Application Publication No. 2002/0099608). Dependent claims 3, 4, 8, and 9 are ultimately dependent from amended independent claim 1. If amended independent claim 1 is allowable over the cited reference Abell, then the dependent claims should also be in condition for allowance.

CONCLUSION

It is not believed that extensions of time or fees for addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

Respectfully submitted,



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